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6
7 IN THE UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF WASHINGTON
9

10 United States of America,

11 Plaintiff,

12 vs.
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14 NATHAN LYNN CLOUD,

15 Defendant.
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1:16-CR-2002-LRS

GOVERNMENT'S TRIAL
MEMORANDUM

17 Plaintiff, United States of America, by and through Michael C. Ormsby, United
18 States Attorney for the Eastern District of Washington, and Laurel J. Holland,
19 Assistant United States Attorney for the Eastern District of Washington, hereby
20 submits this brief in advance of trial.
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23 I. CASE STATUS

24 Trial is presently set before Senior United States District Court Judge Lonny R.
25 Suko, on Monday, September 12, 2016, at 9:00 a.m. in Yakima, Washington.
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1 A. Estimated time for the government's case in chief is one (1) day. At this
2 point, the government expects to call approximately seven (7) witnesses.

3 B. The Defendant is presently in custody.

4 C. The Indictment charges as follows:
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6 Count 1

7 On or about October 18, 2015, in the Eastern District of Washington, the
8 Defendant, NATHAN LYNN CLOUD, having been convicted of a crime punishable
9 by imprisonment for a term exceeding one year, did knowingly possess in and
10 affecting interstate commerce, a firearm, to wit, a ROHM .22 caliber revolver, model
11 RG23, with an obliterated serial number, which had theretofore been transported in
12 interstate and foreign commerce, in violation of Title 18 United States Code, Section
13 922(g)(1).
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16 D. Pertinent Statute
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18 Title 18, United States Code, Section 922(g)(1), provides in pertinent part:
19 It shall be unlawful for any person who has been convicted in any court of a crime
20 punishable by imprisonment for a term exceeding one year to possess in or affecting
21 commerce, any firearm which has been shipped or transported in interstate or foreign
22 commerce.
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25 II. ELEMENTS

26 A. Felon in Possession of a Firearm
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1 In order for a defendant to be found guilty of being a felon in possession of a
2 firearm, the government must prove each of the following elements beyond a
3 reasonable doubt:

4 First, the defendant knowingly possessed a firearm;

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6 Second, the firearm had been shipped or transported from one state to another
7 or between a foreign nation and the United States;

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9 Third, at the time the defendant possessed the firearm, the defendant had been
10 convicted of a crime punishable by imprisonment for a term exceeding one
11 year.

12 13 B. Stipulations

14 The parties may stipulate to certain facts. However, at this point, the parties
15 have not agreed to any stipulations.

16 17 III. SUMMARY OF EVIDENCE

18 On May 15, 2013, the Defendant was convicted of two felony offenses
19 punishable by a term of imprisonment exceeding one year. After being released from
20 jail, the Defendant was supervised by Washington State Department of Corrections
21 (hereinafter "DOC") Officer Juan Frausto. The Defendant was non-compliant with
22 the DOC terms of supervision, and a warrant was subsequently issued for his arrest.
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24 On October 18, 2015, deputies with the Yakima County Sheriff's Office were
25 performing warrant service duties in Yakima and the surrounding area. Deputies were
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1 aware of an outstanding warrant for Elias Culps (hereinafter "Culps"). Deputy
2 McIlrath had also received information that the Defendant had been living at the
3 residence with Culps. Deputy Bazan and Deputy McIlrath viewed a photograph of the
4 Defendant. The deputies proceeded to Culps's listed address of 241 Second Street in
5 White Swan, Washington.
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7 When deputies arrived at the location, Deputy Bazan proceeded to the front
8 door, while Deputy McIlrath stood near a window adjacent to the front entrance.
9 Deputy Bazan knocked on the front door once, with no answer from inside the
10 residence. He knocked a second time and heard the sound of a dead bolt lock.
11 Deputy Bazan then heard the door unlock. He knocked a third time and announced
12 that he was with the Sheriff's Department. As Deputy Bazan knocked on the door, it
13 opened, and revealed multiple people sleeping in the living room of the residence.
14 One of those persons was the Defendant, asleep in a recliner chair, approximately five
15 feet from the front door. Both Deputy Bazan, and Deputy McIlrath, watching from
16 the adjacent side window, recognized the Defendant.
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18 Deputy Bazan and Deputy Mallonee entered the residence. Deputy Bazan
19 requested the Defendant stand up, and advised him that he had a felony warrant.
20 Deputy Bazan placed the Defendant in handcuffs and escorted him from the residence
21 to a patrol vehicle. Deputy Bazan performed a search of the Defendant incident to
22 arrest and located a .22 caliber revolver with an obliterated serial number in the
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1 Defendant's right front pocket. Deputy Bazan handed the revolver to Deputy
2 Petrovich, who examined the firearm and advised that it was loaded. Deputy Bazan
3 was aware that the Defendant was a convicted felon.

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5 On September 1, 2016, the firearm was provided to Resident Agent in Charge
6 Thomas Walsh. Resident Agent in Charge Walsh is an interstate nexus expert with
7 the Bureau of Alcohol, Tobacco, Firearms and Explosives. Resident Agent in Charge
8 Walsh has previously testified as an expert in the Eastern District of Washington as
9 well as other federal courts. Resident Agent in Charge Walsh examined the firearm
10 and determined that parts of the firearm were manufactured in Germany and the
11 firearm receiver was manufactured in the state of Florida.
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14 IV. LEGAL ISSUES

15 A suppression hearing was held on August 23, 2016. The Court denied the
16 Defendant's Motion to Suppress (ECF Nos. 25, 49).
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19 MICHAEL C. ORMSBY
United States Attorney

20 s/ Laurel J. Holland
21 LAUREL J. HOLLAND
Assistant United States Attorney
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1 I hereby certify that on September 2, 2016, I electronically filed the foregoing
2 with the Clerk of the Court using the CM/ECF System which will send notification of
3 such filing to the following: Richard A. Smith.

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